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Received & Inspected

JAN 22 2008

FCC Mail Room

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January 21, 2008

By Federal Express

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 30554

Attn: Chief, Media Bureau

**Re: New Hope Telephone Cooperative, Inc.'s Request for Waiver of 47 C.F.R.
§ 76.1204(a)(1)**

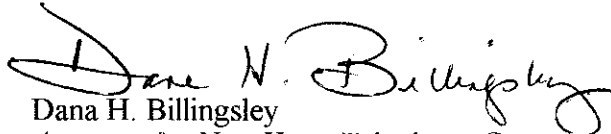
Dear Ms. Dortch:

On behalf of New Hope Telephone Cooperative, Inc., we submit the original and four (4) copies of the above-referenced Request for Waiver. A check in the amount of \$1,588.00 is attached as the filing fee. We have also filed a copy of this Request electronically in CS Docket 97-80.

Please contact me if you have any questions regarding this matter.

Very truly yours,

WILKERSON & BRYAN, P.C.



Dana H. Billingsley
Attorney for New Hope Telephone Cooperative, Inc.
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Enclosure

cc: Doug Martinson, Esq.
Tom Wing

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READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE
FORM 159

Received & Inspected

JAN 22 2008

Approved by OMB
3060-0589
Page No. 1 of 2

FCC Mail Room

(1) LOCKBOX # 358205		SPECIAL USE ONLY	
		FCC USE ONLY	
SECTION A - PAYER INFORMATION			
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) New Hope Telephone Cooperative, Inc.		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$1,588.00	
(4) STREET ADDRESS LINE NO. 1 5415 Main Drive			
(5) STREET ADDRESS LINE NO. 2			
(6) CITY New Hope		(7) STATE AL	(8) ZIP CODE 35760
(9) DAYTIME TELEPHONE NUMBER (include area code) 256-723-4211		(10) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(11) PAYER (FRN) 0005082060		(12) FCC USE ONLY	
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(13) APPLICANT NAME			
(14) STREET ADDRESS LINE NO. 1			
(15) STREET ADDRESS LINE NO. 2			
(16) CITY		(17) STATE	(18) ZIP CODE
(19) DAYTIME TELEPHONE NUMBER (include area code)		(20) COUNTRY CODE (if not in U.S.A.)	
FCC REGISTRATION NUMBER (FRN) REQUIRED			
(21) APPLICANT (FRN)		(22) FCC USE ONLY	
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET			
(23A) CALL SIGN/OTHER ID	(24A) PAYMENT TYPE CODE TQC	(25A) QUANTITY	
(26A) FEE DUE FOR (PTC) \$1,588.00	(27A) TOTAL FEE \$1,588.00	FCC USE ONLY	
(28A) FCC CODE 1	(29A) FCC CODE 2		
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE	(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY	
(28B) FCC CODE 1	(29B) FCC CODE 2		
SECTION D - CERTIFICATION			
CERTIFICATION STATEMENT I, <u>Dana H. Billingsley</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.			
SIGNATURE <u>Dana H. Billingsley</u>		DATE <u>1/21/08</u>	
SECTION E - CREDIT CARD PAYMENT INFORMATION			
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____			
ACCOUNT NUMBER _____		EXPIRATION DATE _____	
I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.			
SIGNATURE _____		DATE _____	

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

JULY 2005

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20054**

JAN 22 2008

FCC Mail Room

In the Matter of)
 New Hope Telephone Cooperative, Inc.) CSR -- _____
 Request for Waiver of)
 47 C.F.R. § 76.1204(a)(1)) CS Docket No: 97-80

To: Chief, Media Bureau

REQUEST FOR WAIVER

New Hope Telephone Cooperative, Inc., including its wholly owned subsidiary, New Hope Telephone Cooperative Long Distance, Inc. d/b/a ICE Media Group (collectively, "New Hope"), hereby requests a limited waiver of Section 76.1204(a)(1) of the rules of the Federal Communications Commission ("FCC" or the "Commission"), pursuant to 47 U.S.C. § 549(c) and 47 C.F.R. §§ 1.3, 76.1207 and 76.7.

I. INTRODUCTION AND BACKGROUND

A. Description of New Hope.

New Hope is a not for profit cooperative owned by the subscribers to the services it provides as an incumbent local exchange telecommunications carrier in the state of Alabama offering voice, Internet, data and broadband services in Madison, Marshall and Jackson counties. New Hope is a franchised cable operator in the municipal areas of Huntsville, New Hope, Owens Cross Roads and Grant and in the rural areas of Madison, Marshall and Jackson counties. New Hope offers high-speed Internet access, local and long distance telephone service and numerous adjunct to basic telephone services, including voice messaging, and its multichannel video offerings include 97 channels of cable TV, Pay Per View and Digital TV. New Hope soon plans to provide advanced communications services through its video offerings, such as Video on

Demand ("VOD"), subscription VOD, digital video recorders, High-Definition Television, and interactive television, over its own 750 MHz interactive broadband network.

New Hope is restricted by its Certificate of Public Convenience and Necessity ("CPCN") issued by the Alabama Public Service Commission ("APSC") from providing services outside of its circumscribed service territory including portions of Madison, Marshall and Jackson counties; however, Comcast, Charter Communications, MediaCom, all national cable operators, and Knology compete in New Hope's service territory for its subscribers. New Hope began offering multichannel video services in 1965 and has approximately 2,300 video connections in its service area.

B. Relief Requested.

Under 47 C.F.R. § 76.1204(a)(1), multichannel video programming distributors ("MVPDs") are prohibited from placing in service "navigation devices," including set top boxes ("STB"), that combine conditional access and other functions in a single integrated device as of July 1, 2007 (the "Integration Ban").^{1, 2} New Hope respectfully requests a waiver of the Integration Ban on the following grounds.

New Hope is in the process of replacing its existing copper facilities with fiber to the subscribers' homes. At such time as the fiber facilities are completed, New Hope will terminate its existing radio frequency ("RF") plant, which presently delivers analog cable television programming, and will receive a digital RF signal via satellite, which will then be encoded into Internet Protocol Television ("IPTV") and delivered over the company's fiber broadband

¹ *In re Implementation of Section 304 of the Telecommunications Act of 1996*, Second Report and Order, 20 FCC Rcd 6794 (2005) (the "2005 Integration Ban Order").

² The Integration Ban was adopted by the Commission pursuant to 47 U.S.C. § 629(c). 47 U.S.C. § 549(a) generally requires the Commission to adopt regulations to assure the commercial availability to consumers of STBs and other navigation devices from vendors not affiliated with MVPDs.

infrastructure to subscribers. Upon completion of its fiber network, New Hope will replace the RF compatible STBs now being used by subscribers with IP compatible STBs. New Hope presently anticipates that it will begin provisioning IPTV by mid-2008.

New Hope therefore seeks a waiver for a limited time to allow it to use non-compliant STBs pending completion of its fiber facilities and substitution of these STBs with boxes that are IP compatible.

II. THE COMMISSION'S RULES PERMIT A WAIVER OF SECTION 76.1204(a)(1).

47 U.S.C. § 549(c) specifically permits a waiver of the Integration Ban, as follows:

[t]he Commission shall waive a regulation adopted under subsection (a) of this section for a limited time upon an appropriate showing ... that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products.³

The Commission may also waive the requirements of the Integration Ban under 47 C.F.R. § 1.3 for good cause shown and under 47 C.F.R. § 76.7 upon petition by any "cable television system operator, a multichannel video programming distributor, local franchising authority, or an applicant, permittee, or licensee of a television broadcast or translator station."

Further, the Commission has shown concern about the Integration Ban's effect on new technologies and services. In this regard, the Commission explicitly declined to apply the Integration Ban to direct broadcast satellite ("DBS") providers, noting that "Congress intended 'that the Commission avoid actions which could have the effect of freezing or chilling the development of new technologies and services.'"⁴ Similarly, the Commission has also been specifically concerned about the impact of the Integration Ban on small providers.⁵

³ See also 47 C.F.R. § 76.1207.

⁴ *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability Navigation Devices*, 13 FCC Rcd 14775, 14801 (1998).

⁵ It has been shown that there could be negative impacts on small systems as a result of compliance with the

New Hope offers MVPD service in competition with larger providers that have nationwide reach and a greater ability to make the kind of capital expenditures necessary to comply with the Integration Ban. The increased cost of high end STBs would force New Hope to incur unnecessary expenses of approximately \$100,000.00 to upgrade the boxes and existing infrastructure to comply with the requirements of the Integration Ban, which costs New Hope could not recoup, when it intends not merely to upgrade its current RF configured STBs, but to begin their wholesale replacement with IP compatible sets. In addition, New Hope's relatively small subscriber base and the narrow construction of the requested waiver will foster the Commission's goals to ensure that the manufacturers and retailers of set top boxes will not be harmed and that the MVPD market will remain competitive.⁶

III. CONCLUSION

For the foregoing reasons, New Hope Telephone Cooperative, Inc. hereby requests a limited waiver of the requirements of 47 C.F.R. §76.1204(a)(1).

Respectfully submitted on this 21st day of January, 2008.

NEW HOPE TELEPHONE COOPERATIVE, INC.



MARK D. WILKERSON
DANA H. BILLINGSLEY

Attorneys for New Hope Telephone Cooperative,
Inc.

obligations, and the Commission determined that "[t]o the extent that small cable systems would experience economic hardship as a result of these obligations, we will consider waiver requests on a case-by-case basis." *Matter of BellSouth Interactive Media Servs., LLC and BellSouth Entm't, LLC*, Memorandum Opinion and Order, 19 FCC Rcd 15607, 15610 (2004).

⁶ Although the goal of the Integration Ban is to foster competition in the set top box market, it is also a primary goal of the Commission to foster competition in the MVPD market. See *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, FCC 06-180 (rel. March 5, 2007) (statement of Chairman Martin). Approval of this waiver should reduce the risk of harm to competition in the MVPD market.

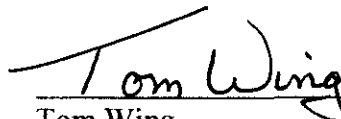
OF COUNSEL:
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Facsimile: (334) 265-0319

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In the Matter of)	
New Hope Telephone Cooperative, Inc.)	CSR -- _____
Request for Waiver of)	
47 C.F.R. § 76.1204(a)(1))	CS Docket No: 97-80

DECLARATION OF TOM WING

1. My name is Tom Wing. I am the General Manager of New Hope Telephone Cooperative, Inc. By virtue of my position, I am familiar with New Hope's plans to begin provisioning IPTV by mid-2008 by means of new fiber facilities and begin replacing the RF compatible STBs now being used by subscribers with IP compatible boxes.
2. I have read the foregoing Request for Waiver and I am familiar with the contents thereof.
3. I declare under penalty of perjury that the facts contained herein and within the foregoing Request for Waiver are true and correct to the best of my knowledge, information, and belief.



Tom Wing
General Manager
New Hope Telephone Cooperative, Inc.
Executed on: 1-18-2008